



UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/446, 202 12/16/99 ROSELLE

B 6741

IM22/0309

EXAMINER

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ART UNIT

PAPER NUMBER

1761

DATE MAILED:

03/09/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary	Application No.	Applicant(s)
	09/446,202	ROSELLE ET AL.
	Examiner	Art Unit
	Helen F. Pratt	1761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- 1) Responsive to communication(s) filed on 16 January 2001.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-21 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) The proposed drawing correction filed on _____ is: a) approved b) disapproved.
- 12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) All b) Some * c) None of the CERTIFIED copies of the priority documents have been:
1. received.
2. received in Application No. (Series Code / Serial Number) _____.
3. received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgement is made of a claim for domestic priority under 35 U.S.C. & 119(e).

Attachment(s)

- 14) Notice of References Cited (PTO-892)
- 15) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 16) Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 17) Interview Summary (PTO-413) Paper No(s) _____.
- 18) Notice of Informal Patent Application (PTO-152)
- 19) Other: _____

Art Unit: 1761

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 1 is indefinite in the use of the phrase "optionally, ... surfactant; and toxicologically-acceptable basic buffer". Certainly, both ingredients would not be optional.

MISCELLANEOUS

Claim 3 requires a period at the end of the sentence.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Murch et al. (5,498,295).

Murch et al. disclose a method of treating food by contacting the food with a basic buffer which is sodium bicarbonate at a pH of not greater than 12.5 (col. 9, lines

Art Unit: 1761

6-20 and lines 34-39). The reference discloses that the formulation containing the sodium bicarbonate can in addition to being rinsed off, can rubbed or wiped off (col. 11, lines 4-13). The reference discloses that the disinfectant is provided but doesn't say how long the composition is to remain on the food product as in claim 1 and 2. As only the alkaline buffer is required in the claim, and it is known that sodium bicarbonate is food safe, then the composition would be safe for consumption. Therefore, as the composition contains food safe materials, it would have been obvious not to rinse off the composition before consumption.

Claims 2-6 further require particular amounts of the anionic detergent surfactant. The reference discloses the use of from 0.5% to about 15% C8-C18 fatty acid (col. 2, lines 60-65). Therefore, it would have been obvious to use within the claimed amounts.

Claim 7 further requires diluting the composition. As the ingredients are known, it is seen that it would have been within the skill of the ordinary worker to dilute to a particular amount. Therefore, it would have been obvious to dilute the claimed composition.

The limitations of 8-11 have been disclosed above. Claim 12 further requires from .1 to 50% detergent surfactant in a concentrated solution which is shown by the reference in amounts from 0.5 to 15% (col. 12, lines 46-55). It would have been within the skill of the ordinary worker to use amounts which would be food safe if not washed off. The other ingredients are optional or have been disclosed above. Therefore, as

Art Unit: 1761

the reference discloses amounts within the claimed range, it would have been obvious to use a food safe amount.

Claim 13 further requires a calcium sequestrant which is shown by the reference to be citric acid (col. 11, lines 10-25). Therefore, it would have been obvious to use known sequestrants in the claimed composition.

Claim 14 further requires a particular range of the pH of the buffer and a calcium ion sequestrant. The particular range of pH of the buffer is seen as within the skill of the ordinary worker, knowing that the product must be edible. Calcium sequestrants are disclosed by Murch et al. '678 (col. 8, as GRAS items). Therefore, it would have been obvious to use known sequestrants such as EDTA in the claimed composition.

The further limitations of claims 15-21 are seen as obvious variations well within the skill of the ordinary worker to apply. Therefore, it would have been obvious to make the product a particular viscosity, and to use an antioxidant, and a suds suppresser and regular water in the claimed composition.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Helen F. Pratt whose telephone number is 703-308-1978. The examiner can normally be reached on Monday to Friday from 9:30 to 6:00. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Milton Cano can be reached on (703) 308-3959. The fax phone number for the organization where this application or proceeding is assigned is 703-873-9311

Art Unit: 1761

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1193.

Hp 3-7-01

H. Pratt
HELEN PRATT
PRIMARY EXAMINER
GROUP 1300-1761